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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,140	11/21/2000	Brian Hawtin	2000-0702.OR	6011

7590 11/23/2004
Mark J Burns
1130 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

EXAMINER

KANTAMNENI, SHOBHA

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/701,140	Applicant(s) HAWTIN, BRIAN	
	Examiner Shobha Kantamneni	Art Unit 1617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: _____
3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

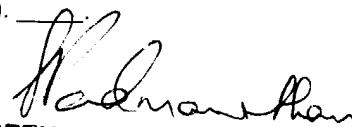
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 3, 5, 9, 11-12, 17, 28, 32 and 33.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


SREENI PADMANABHAN
 SUPERVISORY PATENT EXAMINER

Continuation of 5: The declaration filed on October 01, 2004 was considered but not persuasive. The 35 USC 103 rejections are maintained for reasons of record in the Office action mailed on 07/28/2004 and those found below.

The Examiner respectfully points out that the scope of the declaration is not in line with the instant claims. The instant claims are directed to any skin disorder and the declaration appears to be only for treating eczema and atopic dermatitis.

Examiner respectfully points out that the results using cromoglycate-containing formulation should be compared with and without the amphoteric surfactant.

Applicant argue's that the data generated by Van Beaver et al reports the effectiveness of the compositions described by Totten et al. This argument is not persuasive. Applicant is comparing Totten et al. Nedocromil formulation with Van Bever formulation which has different ingredients i.e Applicant is not comparing similar formulations. Totten et al formulation has extra ingredients such as Liquid Paraffin, Isopropyl Myristate, Cremophor A6, Cremophor A25 etc. which can effect the efficacy of the formulation. Thus Applicant has failed to provide an exact comparision with the closest prior art.